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REPORT
101-70

TRADE AGENCY AUTHORIZATIONS FOR FISCAL YEAR 1990

MAY 25, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 2443]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2443) to authorize appropriations for fiscal year 1990 for the customs and trade agencies, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSES AND SUMMARY

H.R. 2443, as ordered reported by the Committee on Ways and Means, combines three separate trade agency authorizations of appropriations under the jurisdiction of the Committee.

Section 1(a) of the bill authorizes appropriations of $39,943,000 for the U.S. International Trade Commission (ITC) for fiscal year 1990, the amount requested by the ITC. Of this amount, not more than $2,500 may be used for reception and entertainment expenses, subject to approval of the Chairman.

Section 1(b) of the bill authorizes a total amount of $1,075,290,000 for salaries and expenses for the U.S. Customs Service for fiscal year 1990. The bill authorizes appropriations for fiscal year 1990 for noncommercial operations of not to exceed $418,822,000, and authorizes appropriations not less than $656,468,000 for commercial operations. These amounts maintain current levels of service, provide for authorization of the fiscal year 1989 pay raise, and reauthorize unfunded Customs drug enforcement programs from the Anti-Drug Abuse Act of 1988 (Public Law 100-690). Section 1(b) also authorizes appropriations not to exceed $128,128,000 for Operations

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and Maintenance of the Customs Aviation Program, as requested by the Administration.

Section 1(c) of the bill authorizes appropriations for the Office of the U.S. Trade Representative (USTR) of $21,143,000, of which not to exceed $89,000 may be used for entertainment and representation expenses and $1 million would remain available until expended.

Section 2 of the bill makes the Office of the Commissioner of Customs a Presidential appointment, subject to Senate confirmation. It also provides that the Commissioner shall carry out duties and powers as prescribed by the Secretary.

Section 3 of the bill authorizes $10 million in discretionary spending from the Customs Forfeiture Fund and provides more detailed annual reporting requirements for the Fund. Section 4 lifts the $100,000 limitation on administrative processing of all uncontested cash seizures. Section 5 permits the transfer of forfeited aircraft and property to the Civil Air Patrol.

Committee Action

The Subcommittee on Trade held public hearings on March 22, 1989, on the authorization of appropriations for and oversight of the U.S. International Trade Commission, U.S. Customs Service, and the Office of the U.S. Trade Representative. Testimony was received from the Commissioner of Customs, the Acting Chairman of the ITC, the General Counsel of USTR, and from public witnesses.

On May 4, the Subcommittee on Trade ordered a draft bill reported favorably to the full Committee by voice vote.

On May 18, the Committee on Ways and Means considered and adopted amendments to the draft bill, reflected in H.R. 2443. The Committee ordered H.R. 2443 reported favorably to the House by voice vote.

Section-By-Section Analysis, Justification, and Comparison With Present Law

U.S. INTERNATIONAL TRADE COMMISSION

Present law

A total authorization level of $35,386,000 was approved for the U.S. International Trade Commission for fiscal year (FY) 1988 in section 9502 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203). No authorization was approved for FY 1989. (The Committee on Ways and Means in 1987 reported out a two-year authorization bill, including an authorization of $36,730,000 for FY 1989. The Senate did not act on a fiscal year 1989 authorization.) Public Law 100–459 provided FY 1989 appropriations of $35,958,000.

Explanation of provision

Section 1(a) of H.R. 2443 amends section 339(e)(2) of the Tariff Act of 1930 to provide an authorization of appropriations for the ITC of $39,943,000 for FY 1990. Of this amount, not more than $2,500 may be used for reception and entertainment expenses, subject to the approval of the Chairman.

Reasons for change

The authorization of $39,943,000 for FY 1990 is the amount requested by the ITC and represents an 11.1 percent increase (or $3,985,000) over the FY 1989 appropriation. The increase is intended to cover nondiscretionary cost increases and provide a full complement of staff positions. The number of authorized positions would remain at the present level of 502.

The nondiscretionary cost increases for FY 1990 include the following items: (1) $2,598,000 in increased staffing costs, including the full year cost of the January 1989 pay increase; within-grade step increases and reclassifications; increased retirement contributions, due to the Federal Employees Retirement System Act of 1986; and an increase to allow for a full complement of staff positions; and (2) an estimated increase of $1,474,000 in communications and utilities; printing, reproduction, and other services; supplies and materials; and equipment. The FY 1990 authorization also includes a decrease of $87,000 in travel, transportation, and space rental.

The Committee believes that while the ITC budget increase is larger than in recent years, it should be approved. The Commission plays a central role in deciding import relief cases and making recommendations to the President; it also responds to numerous requests from the Congress and the President for special economic studies and other fact-finding and technical services. As such, the ITC is of critical importance to the operation of a transparent, fair, and effective U.S. trade policy. The demands on this relatively small agency are expected to increase as a result of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418), the Uruguay Round of multilateral trade negotiations, and the European 1992 single market. For this reason, the Committee recommends that the Committee approve the increase in the budget for FY 1990 as requested by the ITC.

U.S. CUSTOMS SERVICE

Authorization of Appropriations

Present law

The Customs Procedural Reform and Simplification Act of 1978 (P.L. 95–110) provides for the annual authorization of appropriations for the Customs Service. The Omnibus Budget Reconciliation Act of 1986 (P.L. 99–509) requires that the salaries and expense portion of the Customs authorization specify separate amounts for commercial and noncommercial operations.

The Anti-Drug Abuse Act of 1988 (P.L. 100–690) included the authorization of appropriations for fiscal year 1989 for the U.S. Customs Service.

For noncommercial operations, the Drug Act authorized not to exceed $444,504,000 for salaries and expenses, with at least $26,240,000 to increase the number of customs inspectors for drug and contraband enforcement. For commercial operations, $615,247,000 was authorized. The Drug Act authorized $142,262,000 for Air Operations and Maintenance with an additional one time authorization of appropriations of $57,400,000 for FY 1989 for the

procurement, operation and maintenance of helicopters and other interdiction aircraft.

The 1988 Drug Act also authorized an appropriation of up to $20 million from the Customs Forfeiture Fund for each fiscal year to carry out the discretionary purposes of the Fund. In addition, permanent authorization for nondiscretionary costs of processing forfeiture was included. This provision further provides that at the end of each fiscal year, any unobligated amount above $15 million will be deposited into the general fund.

Finally, for cargo container drug detection, the Act authorized $4,100,000 for FY 1989, in addition to any other amounts, provided that it is used for research and development on X-Ray and other technologies to interdict drugs in cargo containers.

The Department of the Treasury appropriations Act for FY 1989 (P.L. 100-440), combined with the supplemental appropriations included in the Anti-Drug Abuse Act of 1988, appropriated a total of $1,194,761,000 in budget authority for the Customs Service in FY 1989. Appropriations were $1,033,911,000 for salaries and expenses and $149,262,000 for the Air Program. These amounts included supplemental appropriations under the Drug Act of $8,500,000 for salaries and expenses and $7 million for the Air Program. The Treasury appropriation included funding for 640 additional positions to be allocated to Customs commercial operations.

Several Customs enforcement programs authorized for FY 1989 by the Anti-Drug Abuse Act have not yet been funded: (1) Section 4604(c), Machine Readable Border Document Program, $7 million; (2) section 7631(a), for an additional 435 employees for Contraband Enforcement Teams (CET), $26.2 million; (3) section 7368, Cargo Container Drug Detection Research and Development, $4.1 million. The Drug Act did include a supplemental appropriation for Customs of $8.5 million, thereby leaving a net of $28.8 million in salaries and expenses unappropriated for the Customs drug enforcement programs.

Explanation of provision

Section 1(b) of H.R. 2443 amends section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) to authorize appropriations in an amount not to exceed $418,822,000 for salaries and expenses of noncommercial (enforcement) operations for fiscal year 1990. Subsection (b) also authorizes an appropriation from the Customs User Fee Account for Customs commercial operations in an amount not less than $656,468,000 for FY 1990. This provision would set a floor for commercial operations spending. Subsection (b) further amends section 301(b) to authorize appropriations for Operations and Maintenance of the Customs Air Interdiction Program in FY 1990 in an amount not to exceed $128,128,000.

Reasons for change

The FY 1990 Customs budget request totals $1,021,490,000 for salaries and expenses and 16,422 full-time equivalent (FTE) positions. Although this represents a decrease of only $12.4 million from the FY 1989 appropriated level, there are significant transfers of personnel. Statutorily mandated transfers of 91 FTE to the Statutory

Inspector General and 226 FTE to the Department of Justice Organized Crime Enforcement Task Force are required. In addition, the FY 1990 budget proposes to cut 396 FTE positions from Customs commercial operations by transferring those positions to a new cargo container enforcement initiative.

The bill would provide a total Customs authorization level for FY 1990 in the amount of $1,075,290,000 for salaries and expenses. This compares with the FY 1989 Treasury appropriation level of $1,033,911,000, as supplemented by the Anti-Drug Abuse Act of 1988. This level authorizes funding necessary to maintain current levels of operations in Customs without transferring 396 full-time equivalent positions to the cargo container enforcement initiative. It also provides for authorization of the FY 1989 pay raise, previously unfunded. Finally, the Customs drug enforcement programs authorized for FY 1989 in the Drug Act have been reauthorized in the amount of $2.8 million, the level as yet unfunded for FY 1989.

The authorization level of $418,822,000 for noncommercial operations in FY 1990 was arrived at by starting with a base of $395,366,000, estimated by the customs Service as necessary to maintain current levels, adding $9 million for the 1989 pay raise and $28.8 million for reauthorization of unfunded Anti-Drug Abuse Act programs, and deducting $14,344,000 for the proposed transfer of 396 FTE positions from commercial operations.

With respect to commercial operations, the FY 1990 level of $656,468,000 was arrived at by starting with the Administration request of $626,124,000 and adding $14,344,000 for 396 FTE positions and $16 million for the 1989 pay raise.

The authorization for commercial operations was established as a floor and is intended to maintain current levels of service and to continue staffing at the fiscal year 1989 level, less resources transferred to the Department of Treasury Inspector General. The Committee believes that this level of staffing is necessary to support several important new commercial programs such as expedited binding classification rulings, pre-classification, quality assurance, and trade initiatives, as well as established but understaffed programs such as drawback and regulatory audit. It is expected that, to the extent Customs does realize anticipated efficiencies in commercial operations due to automation, the resultant labor savings will be applied to these new and ongoing understaffed programs.

With respect to the Customs Forfeiture Fund, the Drug Act provided a permanent authorization for the Fund for nondiscretionary uses of the Fund. The bill authorizes appropriations in the amount of $10 million for the Customs Service, the amount requested by the Administration, for discretionary uses of the Fund.

For Operations and Maintenance of the Aviation Program, the bill authorizes $128,128,000 for FY 1990, the amount requested by the Administration. This represents a net decrease of $21,134,000—an increase of $30 million offset by $51 million in non-recurring expenses.

Appointment of the Commissioner of Customs

Present law

Under present law, the Commissioner of Customs is the head of the U.S. Customs Service and is appointed by the Secretary of Treasury without the advice and consent of the Senate (19 U.S.C. 2071). The post of Commissioner is a Senior Executive Service (SES) position.

Explanation of provision

Section 2 or H.R. 2443 amends 19 U.S.C. 2071 to provide that the Commissioner of Customs, as head of the U.S. Customs Service, shall be appointed by the President, by and with the advice and consent of the Senate. This would require the President to nominate, and the Senate to confirm, the Commissioner of Customs. The section further provides that the Commissioner is to carry out such duties and powers as prescribed by the Secretary of the Treasury and is to report to the Secretary through such Department officials as designated by the Secretary.

Finally, section 2 provides for a transition whereby an incumbent Commissioner, in office prior to enactment of the bill, may continue to serve until a new Commissioner is confirmed and takes office under the new appointment process set forth in this section. Since the bill is silent on a term of office, it is expected that the Commissioner will serve at the pleasure of the President.

Reasons for change

The Committee believes that the Office of the Commissioner of Customs is one of the top law enforcement positions in the U.S. government. The Customs Service also plays a major role in regulating international trade and tariff affairs, including the enforcement of U.S. import laws and trade agreements. In addition, a major mission of the Service is the collection and protection of revenue (in fiscal year 1988 alone, Customs collected over $17 billion in duties, taxes, and fees).

By requiring a Presidential appointment and Senate confirmation, the Committee intends to involve the Presidential decisionmaking process in the review and selection of candidates for this important office. Presently, similar positions such as the Commissioner of Internal Revenue and the Drug Policy Czar are subject to Seante confirmation. Further, it would conform the appointment process of the Customs Commissioner to the other key trade agencies under the jurisdiction of the Committee on Ways and Means: the U.S. Trade Representative and three USTR Deputies and the Commissioners of the International Trade Commission.

The confirmation process would also make the selection process public and would ensure that a nominee's enforcement and trade views and background are fully scrutinized. This can only serve to enhance Congressional oversight over the Customs Service. The Committee strongly urges the Administration to seriously consider individuals with broad backgrounds in international trade.

The internal supervisory relationship with the assistant secretary level at the Treasury Department would not be affected by the requirement of Senate confirmation. Since it is not the intention of

this provision to undermien the authority of the Secretary of the Treasury with respect to the Commissioner of Customs, the bill provides that the Secretary of the Treasury is to prescribe the duties and powers of the Commissioner as well as the lines of reporting within the Department of the Treasury. The Committee expects the Department to continue to play an active oversight role over the Customs Service within the Department.

Customs Forfeiture Fund

Present law

Section 7364 of P.L. 100–640, the Anti-Drug Abuse Act of 1988, (19 U.S.C. 1613b(e)) requires an annual report to Congress by the Commissioner of Customs on the financial and management status of the Customs Forfeiture Fund.

Explanation of provision

Section 3 of H.R. 2443 provides for additional reporting requirements for the Customs Forfeiture Fund. These proposed additional reporting requirements would improve Congress' ability to adequately oversee the program by requiring an accounting of (1) the on-hand inventory of assets, (2) gross receipts and disbursements from the Fund, and (3) an income and expense statement, for each class of seized property.

Reasons for change

The new information is needed due to problems with the financial and management practices in the seized property program identified by the Subcommittee on Oversight of the Committee on Ways and Means, in its investigation of the Customs Service requested by the Subcommittee on Trade. This information is also critical to allow the Committee to assess whether Customs' practice of "netting" forfeiture expenses will be ended on June 1, 1989, the target date set by the Assistant Secretary of the Treasury (Management). The Committee expects that the completed annual reprot will be submitted to both the Trade and Oversight Subcommittees concurrent with the transfer to other Congressional committees of jurisdiction.

Administrative Processing of Money Seized Under the Customs Laws

Present law

19 U.S.C. 1607(a) requires that all cash seizure cases over $100,000 in value must be forfeited under a judicial process, rather than through an administrative process within the Customs Service.

Explanation of provision

Section 4 of H.R. 2443 allows for administrative processing of all uncontested seized cash cases by eliminating the requirement for judicial processing of cases over the $100,000 limit. Those defendants who contest cash seizure case, whatever the amount, will still be able to avail themselves of judicial forfeiture proceedings. Sec-

tion 4 further requires the Customs Service to report on delays in processing uncontested cash cases over 120 days to Congress annually.

Reasons for change

The General Accounting Office (GAO) has reported (GAO/T-GGD-89-17) that judicial processing adds 7 months in needless delays in most seized cash cases, since 90 percent of these cases are uncontested. The delays waste taxpayer dollars by involving unnecessary personnel, and prevent funds from being transferred to the Forfeiture Fund and spent on the forfeiture program. The Committee expects that the Customs Service will make every effort to process uncontested seized cash cases over $100,000, and deposit the funds in the Customs Forfeiture Fund, within 120 days of seizure. The annual cash report should be included as part of the annual Customs Forfeiture Fund report.

Disposition of Forfeited Property

Present law

Section 616(c)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1616(c)(1)) provides the Customs Service with authority to transfer forfeited property to other Federal agencies, and State and local law enforcement agencies that participated directly or indirectly in the seizure of forfeiture of the property.

Explanation of provision

Section 5 of H.R. 2443 amends 19 U.S.C. 1616(c)(1) to authorize sharing of forfeited property with the Civil Air Patrol (CAP). Aircraft transferred to the CAP is intended for use in support of CAP missions, including search and rescue, emergency services and drug surveillance missions for local, State, and Federal governments. Jet-powered aircraft may not be transferred.

Reasons for change

The CAP provides important support to the Customs Air Interdiction Program, through supplemental surveillance of illegal drug traffic. The CAP is a dedicated instrumentality of the U.S. Government, under 10 U.S.C. 9441. This provision seeks to clarify the ability of the CAP to participate in the sharing of confiscated resources. The intent of the new provision is to allow Customs to share seized aircraft and related avionics, radar, etc., for the CAP's use. The additional asset sharing will not only provide useful resources to the CAP, but also provide an incentive for cooperation between the two agencies.

Customs Service at Hillsboro, Oregon, Airport

The Committee recommends that the U.S. Customs Service District Office in Portland, Oregon, provide "call-out" service to Hillsboro Airport in Hillsboro, Oregon. The Committee recognizes that an increasing number of international companies in Hillsboro utilize the facilities at Hillsboro Airport, but they incur great costs

and inconveniences because customs service is only provided at Portland International Airport.

Consolidation of Chicago Offices and Relocation to Vicinity of O'Hare Airport

It has come to the attention of the Committee that, due to significant shifts in the modes of transportation of goods and passengers in and out of the Chicago region, most of the work of the Chicago District is now performed at or near O'Hare International Airport. The inspectional staff is largely located at the airport, but the District administrative offices remain at the original downtown Customhouse near the port. Further, the regional and enforcement offices are also located far from the airport, and in a building removed from the District staff.

The Committee further understands that the General Services Administration has embarked on a project to expend significant funds to renovate the existing Customhouse facility, which might not be in the best interests of the government in the long term.

The Committee believes that all reasonable efforts should be made to insure that government services are so located as to maximize efficiency as well as accessibility to those who need and use such services. Accordingly, rather than investing additional funds in renovating the existing Customhouse, the Committee urges the Service to actively pursue all available options for consolidating Chicago-based Customs offices and relocating them to the vicinity of O'Hare Airport.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Present law

Section 141(g)(1) of the Trade Act of 1974, as amended, authorizes an annual appropriation to carry out the functions of the Office of the U.S. Trade Representative. The most recent authorization was for fiscal year 1988 (a total amount of $15,172,000, including $69,000 for entertainment and representation expenses and $1,000,000 to remain available until expended), as provided in section 9504 of the Omnibus Budget Reconciliation Act of 1987.

The total current appropriation to the USTR for fiscal year 1989 is $15,229,000, of which $69,000 is available for official reception and representation expenses and $1,000,000 to remain available until expended (Public Law 100–459).

Explanation of provision

Section 1(c) of H.R. 2443 amends section 141(g)(1) of the Trade Act of 1974 to authorize a total appropriation to the USTR for fiscal year 1990 of $21,143,000. This total authorization level includes not to exceed $89,000 for entertaiment and representation expenses and not to exceed $1,000,000 to remain available until expended.

Reasons for change

The President's budget submission to the Congress for FY 1990 requests a total funding level of $16,830,000 for the Office of the USTR, including $89,000 for entertainment and representation ex-

penses and $1,000,000 to remain available until expended. This requested increase of $1,601,000 from the current appropriation level includes an increase of $1,379,000 and 6 additional staff positions (an increase from 146 to 152 permanent staff positions) to support the final phase of the Uruguay Round of GATT multilateral trade negotiations. The remainder of the requested increase covers certain administrative expenses.

The Committee believes that the FY 1990 budget request for the USTR is inadequate for that Office to perform its statutory functions, particularly as a result of its increased responsibilities under the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418). The level authorized by the Committee of $21,143,000 represents the amount originally requested by the USTR for FY 1990 from the Office of Management and Budget (OMB). This level includes an increase of $2,362,000 to support the Uruguay Round of multilateral trade negotiations, $848,000 for trade law implementation, and $1,620,000 for implementation of the U.S.-Canada Free-Trade Agreement (FTA) approved by the Congress last year. The President's budget request does not include increased funding for USTR trade law or FTA implementation.

It is essential that the USTR have adequate resources to accomplish its statutory functions as the President's chief trade adviser, coordinator of U.S. trade policy, and chief negotiator of international trade agreements. Under the 1988 Trade Act the Congress imposed numerous additional statutory requirements, deadlines, and specific objectives for the USTR to expand U.S. market access abroad, remove foreign unfair trade practices, and improve U.S trade policy planning and development to meet global competition. The most comprehensive and complex multilateral trade negotiations ever held have now entered the final two years when resource demands are the greatest and adequate support is critical to achieve U.S. objectives. The Committee is also very concerned that the USTR have the necessary resources to carry out its lead role of monitoring and developing U.S. policy responses to Europe 1992 single market policies that affect U.S. trading interests.

The U.S.-Canada FTA also requires considerable follow-up implementation and further negotiations to expand its scope. An essential element to the success of that Agreement is the selection and operation of qualified and objective binational panels to review certain antidumping and countervailing duty determinations as a substitute for judicial review in U.S. courts. The USTR budget request to the OMB included $1,492,000 for these panelists, in accordance with the agreement between the House Ways and Means and Senate Finance Committees that the funding for this portion of the FTA implementation should be included in the USTR rather than the Department of Commerce budget as a means of control over panelist selection. To comply with the legislative intent and as a matter of comity between the two committees, the Committee added $1,492,000 to the USTR budget authorization for this purpose.

Normally the Committee has not exceeded the Administration's budget request for the USTR, in recognition of the need for Federal budgetary restraint. However, USTR is a small and lean agency that does not have the flexibility of large agencies with multi-bil-

lion dollar budgets to shift its limited resources as needs increase and functions change. The Congress expects the Office of the USTR to perform the lead role in national trade policy and has increased its responsibilities within the past year. Therefore, the Committee believes the Congress should provide that Office a commensurate increase in funding and that the original USTR request of $21,143,000 is warranted.

Vote of the Committee in Reporting the Bill

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill: H.R. 2443 was ordered favorably reported by the Committee by voice vote.

Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee has concluded, from the public hearing testimony received by the Subcommittee on Trade, detailed review of the budget requests of each of the three trade agencies, and the investigation of the Customs Service by the Subcommittee on Oversight, that the budget authorization levels and operational changes in H.R. 2443 are warranted. In particular, the Committee is concerned from its ongoing oversight of the implementation of the trade and customs laws and of trade negotiations that the resources of these three major trade agencies be fully adequate to meet their increased responsibilities.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

Budgetary Authority and Cost Estimates, Including Estimates of the Congressional Budget Office

In compliance with clause 7(a) of rule XIII and with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 2443 would provide new budgetary authority for the U.S. International Trade Commission in the amount of $39.9 million, for the U.S. Customs Service in the amount of $1.203 billion, and for the U.S. Trade Representative in the amount of $21.1 million for fiscal year 1990. The Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the bill.

In compliance with clause 7(a) of rule XIII and with clauses 2(l)(3)(B) and (C) of rule XI of the Rules of the House of Representatives, the Committee agrees with the cost estimates furnished by the Congressional Budget Office on H.R. 2443 and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 24, 1989.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2443, a bill to authorize appropriations for fiscal year 1990 for the customs and trade agencies, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2443.

2. Bill title: A bill to authorize appropriations for fiscal year 1990 for the customs and trade agencies, and for other purposes.

3. Bill status: As ordered reported by the House Committee on Ways and Means, May 18, 1989.

4. Bill purpose: H.R. 2443 would authorize 1990 appropriations of $1.203 billion for the U.S. Customs Service, including $1.075 billion for salaries and expenses and $128 million for the air interdiction program. The bill would also authorize the appropriation of $40 million to the International Trade Commission (ITC) and $21 million to the Office of the U.S. Trade Representative (OUSTR).

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Authorization level:					
ITC (Function 150)	40				
Customs Service (Function 750)	1,203				
OUSTR (Function 800)	21				
Total	1,264				
Estimated outlays:					
ITC (Function 150)	34	3	1	1	
Customs Service (Function 750)	984	134	70	11	5
OUSTR (Function 800)	18	3			
Total	1,036	140	71	12	5

The costs of this bill fall within budget functions 150, 750, and 800. Including outlays for prior year appropriations, total outlays in 1990 would be $38 million for the ITC, $1,204 million for the Customs Service, and $20 million for the OUSTR.

Basis of estimate: This estimate assumes that the full amounts authorized would be appropriated for fiscal year 1990. The estimated outlays are based on historical spending patterns.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Kent Christensen, James Hearn, and Michael Sieverts.
10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Inflationary Impact

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 2443 would not have an inflationary impact on prices and costs in the operation of the general economy.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Tariff Act of 1930

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TITLE III—SPECIAL PROVISIONS

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PART II—UNITED STATES TARIFF COMMISSION

SEC. 3390. ORGANIZATION OF THE COMMISSION.

(a) * * *

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(e) Authorization of Appropriations.—(1) For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be apprpriated to the Commission only such sums as may hereafter be provided by law.

(2) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year [1988] *1990* not to exceed [$35,386,000;] *$39,943,000;* of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses. No part of any sum that is appropriated under the authority of this paragraph may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.

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PART V—ENFORCEMENT PROVISION

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SEC. 607. SEIZURE, VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

(a) If—

(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

(2) such seized merchandise is merchandise the importation of which is prohibited; [or]

(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance; *or*

(4) such seized merchandise is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

(b) As used in this section, the term "controlled substance" has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(c) The Commissioner of Customs shall submit to the Congress, by no later than February 1 of each fiscal year, a report on the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Customs Forfeiture Fund under section 613A within 120 days of seizure, as of the end of the previous fiscal year.

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SEC. 613A. CUSTOMS FORFEITURE FUND.

(a) * * *

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(e) ANNUAL REPORTS; AUDITS.—

(1) The Commissioner of Customs shall transmit to the Congress, by no later than February 1 of each fiscal year the following detailed reports:

(A) a report on—

(i) the estimated total value of property forfeited under any law enforced or admnistered by the United States Customs Service or the United States Coast Guard with respect to which funds were not deposited in the Fund during the previous fiscal year, and

(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; [and]

(B) a report on—

(i) the balance of the Fund at the beginning of the preceding fiscal year;

[(ii) sources of receipts (seized cash, conveyances, and others) of the Fund during the previous fiscal year;]

[(iii)] *(ii) liens and mortgages paid* and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

[(iv)] *(iii)* the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

[(v)] *(iv)* any defendant's equity in property valued at $1,000,000 or more; [and]

[(vi)] *(v)* the balance of the Fund at the end of the previous fiscal year[.]*; and*

(C) a report on—

(i) the value of the on-hand inventory of seized property (general property, conveyances, seized cash, and real property) as of the last day of the previous fiscal year, and

(ii) the sources (categorized on the basis of general property, conveyances, seized cash, and real property) of the gross receipts of, and the gross disbursements from, the fund during the previous fiscal year.

The report required under subparagraph (C) shall include a statement of all income and expenses associated with the disposition of all seized property during the previous fiscal year, including property sold, remitted, shared with State and local law enforcement agencies, placed into official use, or otherwise disposed of.

(2) The Fund shall be subject to annual financial audits conducted by the Comptroller General of the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes set forth in subsection (a)(1).

(2) There are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year, *of which for each such year not to exceed $10,000,000 shall be available to carry out the purposes set forth in subsection (a)(3).*

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SEC. 616. TRANSFER OF FORFEITED PROPERTY.

(a) * * *

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(c)(1) The Secretary of the Treasury may apply property forfeited under this Act in accordance with subparagraph (A) or (B), or both:

(A) Retain any of the property for official use.

[(B) Transfer any of the property to any—

[(i) other Federal agency;

[(ii)Any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.]

(B) Transfer any of the property to—

(i) other Federal agency;

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

(iii) the Civil Air Patrol.

Aircraft is authorized to be transferred to the Civil Air Patrol under subparagraph (B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of subparagraph (B)(iii).

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SECTION 301 OF THE CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978

TITLE III—CUSTOMS SERVICE APPROPRIATIONS AUTHORIZATION

SEC. 301. (a) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for the United States Customs Service only such sums as may hereafter be authorized by law.

[(b) There are authorized to be appropriated to the Department of the Treasury not to exceed $564,224,000 for the salaries and expenses of the United States Customs Service for fiscal year 1983, of which not to exceed $31,464,000 is for salary and expenses for the enforcement of the alcohol and tobacco revenue laws.]

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1990 not to exceed $418,822,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations.

(2) FOR COMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1990 not less than $656,468,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for fiscal year 1990 not to exceed $128,128,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.

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TRADE ACT OF 1974

TITLE I—NEGOTIATING AND OTHER AUTHORITY

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CHAPTER 4—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 141. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) * * *

* * * * * * *

[(g)(1)(A) There are authorized to be appropriated for fiscal year 1988 to the Office for the purposes of carrying out its functions not to exceed $15,172,000.

[(B) Of the amounts authorized to be appropriated under subparagraph (A) for fiscal year 1988—

[(i) not to exceed $69,000 may be used for entertainment and representation expenses of the Office; and

[(ii) not to exceed $1,000,000 shall remain available until expended.]

(g)(1)(A) There are authorized to be appropriated for fiscal year 1990 to the Office for the purposes of carrying out its functions not to exceed $21,143,000.

(B) Of the amounts authorized to be appropriated under subparagraph (A) for fiscal year 1990—

(i) not to exceed $89,000 may be used for entertainment and representation expenses of the Office; and

(ii) not to exceed $1,000,000 shall remain available until expended.

ACT OF MARCH 3, 1927

Chapter 348.—An Act To create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of the Treasury a bureau to be known as the Bureau of Customs, a bureau to be known as the Bureau of Prohibition, a Commissioner of Customs, and a Commissioner of Prohibition. [The Commissioner of Customs shall be at the head of the Bureau of Customs, and the Commissioner of Prohibition shall be at the head of the Bureau of Prohibition.] *The Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate, shall—*

(1) be at the head of the United States Customs Service;

(2) carry out the duties and powers prescribed by the Secretary of the Treasury; and

(3) report to the Secretary of the Treasury through such other officials as may be designated by the Secretary.

The Commissioner of Customs and the Commissioner of Prohibition shall be appointed by the Secretary of the Treasury, without regard to the civil service laws, and each shall receive a salary at the rate of $8,000 per annum.

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